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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ANTHONY DAVID FLORES,  
aka "Anton David,"

16 Defendant.  
17

No. 2:22-CR-00593-PA-1

GOVERNMENT'S OBJECTIONS TO THE  
PRESENTENCE REPORT AND SENTENCING  
POSITION FOR DEFENDANT ANTHONY  
DAVID FLORES

*[Filed Concurrently with Under  
Seal Victim Impact Statement and  
Government Exhibits]*

Hearing Date: June 17, 2024

Hearing Time: 1:30 p.m.

Location: Courtroom of the  
Hon. Percy Anderson

20  
21 Plaintiff United States of America, by and through its counsel  
22 of record, the United States Attorney for the Central District of  
23 California and Assistant United States Attorney Andrew M. Roach,  
24 hereby files its Objections to the Presentence Report and Sentencing  
25 Position for Defendant Anthony David Flores.

26 //

27 //

28 //

1        This sentencing position is based upon the attached memorandum  
2 of points and authorities, the files and records in this case, and  
3 such further evidence and argument as the Court may permit.  
4

5 Dated: June 3, 2024

Respectfully submitted,

6 E. MARTIN ESTRADA  
7 United States Attorney

8 CAMERON L. SCHROEDER  
9 Assistant United States Attorney  
Chief, National Security Division

10 /s/ Andrew M. Roach

11 ANDREW M. ROACH  
Assistant United States Attorney

12 Attorneys for Plaintiff  
13 UNITED STATES OF AMERICA  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendant Anthony David Flores, aka "Anton David," orchestrated  
4 a fraud against a wealthy physician-investor and his \$60-million  
5 estate. The victim was suffering a severe mental health crisis when  
6 he met defendant Flores and his long-term romantic partner and  
7 codefendant Anna Rene Moore by chance in June 2017. Eleven months  
8 later, the victim was dead and millions of dollars had been siphoned  
9 from his accounts.

10 In essence, there were two schemes against the victim, the first  
11 scheme to defraud him during his life, and the second scheme to  
12 defraud his estate after his death. Defendant Flores was behind the  
13 entire fraud. And after the victim's death, the mastermind of the  
14 scheme against the victim's estate, the second scheme which defendant  
15 Moore joined in with him.

16 Defendant Flores's crimes were serious and shocking. And they  
17 left a gifted but vulnerable victim dead. Accordingly, for the  
18 reasons below, the government recommends defendant be sentenced to  
19 180 months' imprisonment (15 years), followed by three years of  
20 supervised release, and a special assessment of \$900. This  
21 recommendation is sufficient, but not greater than necessary, to  
22 achieve the factors of 18 U.S.C. § 3553(a).

23 **II. FACTUAL BASIS<sup>1</sup>**

24 **A. Defendants Meet the Victim**

25 Before meeting the victim on June 23, 2017, defendant Flores and  
26 his codefendant and then-romantic partner Anna Rene Moore lived in  
27

---

28 <sup>1</sup> Unless otherwise noted, these facts are drawn from the  
defendant Flores's plea agreement. (Dkt. 81.)

1 Fresno, California, where they operated a window cleaning business  
2 and yoga studio. The victim, on the other hand, was a wealthy  
3 ophthalmologist and investor, with a history of mental illness and  
4 was diagnosed with bipolar disorder.<sup>2</sup> The victim had recently been  
5 released from the hospital after several involuntary psychiatric  
6 hospitalizations.

7 Defendants first met the victim by chance, at a Los Angeles-area  
8 ice cream shop on June 23, 2017, while defendants were visiting Los  
9 Angeles from Fresno. Within moments of their initial encounter,  
10 defendants began staying with the victim at the victim's beachfront  
11 home in Malibu, California (the "Beach House").

12 Within weeks of defendants first meeting the victim, the victim  
13 was arrested and hospitalized after he engaged in erratic and manic  
14 behavior in early July 2017. Defendants visited the victim in the  
15 hospital and assisted with his discharge from the hospital.

16 Defendants continued to live with the victim until around July 20,  
17 2017, when the victim evicted defendants from the Beach House during  
18 another manic episode. Afterwards, defendants returned to Fresno.

19 Defendant Flores later sent a letter to the victim's elderly mother  
20 in Florida requesting payment for providing care to the victim.

21 (Ex. 2 (8/11/17 Ltr. to victim's mother).)<sup>3</sup>

22 Between July 20 and July 30, 2017, the victim was alone and was  
23 arrested on three separate occasions for bizarre behavior. Due to

---

24  
25 <sup>2</sup> Bipolar disorder causes extreme mood swings that include  
26 emotional highs (mania or hypomania) and lows (depression). Manic  
27 episodes may include symptoms such as high energy, reduced need for  
sleep, and loss of touch with reality. Depressive episodes may  
include symptoms such as low energy, low motivation, and loss of  
interest in daily activities.

28 <sup>3</sup> All exhibit references are to the government's exhibits filed  
under seal.



1 his diminished mental capacity and multiple arrests, the victim was  
2 detained at Twin Towers Correctional Facility from approximately July  
3 30, 2017 to September 17, 2017, where he spent most of his time in  
4 the forensic in-patient program. While in custody, the victim was  
5 declared incompetent to stand trial on his pending criminal charges.

6 The victim's elderly mother in Florida was initially unable to  
7 locate the victim while he was in custody. She contacted defendant  
8 Flores, whom she learned was a new friend and caregiver of the  
9 victim, and she requested that defendant Flores help locate her son.  
10 Defendants then traveled from Fresno to Los Angeles to help locate  
11 the victim. By mid-August 2017, the victim's mother and defendant  
12 Flores learned that the victim was in custody. Between mid-August  
13 2017 and September 1, 2017, the victim's mother had several  
14 discussions with others, including defendant Flores, about placing  
15 her son in a conservatorship.

16 **B. Defendant Flores Secured Powers of Attorney from Victim**

17 In early September 2017, the victim -- who was still in custody  
18 -- called defendant Flores and requested that defendant Flores bail  
19 the victim out of jail. During recorded jail calls, defendant Flores  
20 told the victim that the victim's mother was attempting to get a  
21 power of attorney or conservatorship over the victim, and that  
22 defendant Flores was fighting to stop her. In later calls, defendant  
23 Flores told the victim that his mother had hired a conservatorship  
24 attorney and wanted to take control of the Beach House to rent it out  
25 and use the funds for the victim's care. Defendant Flores told the  
26 victim that he knew that was not what the victim wanted, because, as  
27 defendant Flores stated in the recorded jail calls, the victim had  
28 previously "made that very clear to me [defendant Flores] that nobody

1 is to have the beach house except the Johns Hopkins Institute.”  
2 (Ex. 16 (9/6/17 Jail call) at 8:10-20/10:29.)

3 While in custody, the victim signed two powers of attorney  
4 granting defendant Flores power over the victim’s finances.  
5 Defendant Flores told the victim on the recorded jail calls that it  
6 would be a “very limited” power of attorney and only used to manage  
7 the victim’s affairs while he was in custody and then post bail.  
8 Defendant Flores told the victim that he was “welcome” to “get rid”  
9 of it as soon as the victim was released from custody. (Ex. 17  
10 (9/18/17 Jail call) at 14:45-15:30/24:11.) Defendant Flores stated  
11 that he loved the victim and wanted him to be happy and healthy,  
12 adding that he had no interest in the victim’s money.

13 The victim executed two powers of attorneys granting defendant  
14 Flores access to the victim’s finances, on September 9 and 12, 2017.  
15 (Exs. 3, 4 (9/9/17 and 9/12/17 Powers of Attorneys.) The day after  
16 the first power of attorney was signed, defendant Flores texted a  
17 friend the following, “PS . . . I got Power of attorney for the beach  
18 house.” His friend responded: “Boom.” (Ex. 5 (9/10/17 Def. Flores’s  
19 Text Messages) at 6.) Defendant Flores then used these powers of  
20 attorney to bail the victim out of jail. The victim was released  
21 from custody on September 17, 2017.

22 **C. Defendant Flores Accesses the Victim’s Wealth with the PoAs**

23 After the victim’s release from custody, defendant Flores  
24 exercised significant control over the victim’s life. Defendant  
25 Flores used the powers of attorneys to access the victim’s financial  
26 accounts. Between September 27, 2017 and November 9, 2017, defendant  
27 Flores opened three different power-of-attorney bank accounts in the  
28 victim’s name with defendant Flores listed as an authorized user and

1 power of attorney on each account (the "PoA Accounts"). One of the  
2 PoA Accounts, the Chase account ending in 4782 (the "PoA Account"),  
3 served as the defendants' and victim's primary joint bank account  
4 during defendants' time with the victim.

5 While defendant Flores was opening these PoA Accounts, the  
6 victim began a series of extensive ketamine infusion treatments for  
7 treatment of his depression. The ketamine treatments were prescribed  
8 by a licensed physician at a local ketamine clinic. Defendant Flores  
9 facilitated these treatments and took the victim to and from the  
10 clinic for the victim's infusions. The victim received his first  
11 series of ketamine infusions on October 4, 6, 10, 11, and 13, 2017.

12 In mid-October 2017, defendant Flores also assisted the victim  
13 with multiple financial transactions. For example, on October 13,  
14 2017, defendant Flores assisted the victim in cashing out the  
15 victim's long-held permanent life insurance policy for the cash  
16 surrender value of \$446,872.23. Defendant Flores helped fill out the  
17 forms and signed the form as a witness to the victim's signature.  
18 That money was later deposited into the PoA Account, where it was  
19 spent in a matter of months. That same day, October 13, 2017,  
20 defendant Flores called Interactive Brokers and attempted to withdraw  
21 \$1 million from the victim's \$60-million stock portfolio account.  
22 During the recorded call, defendant Flores identified himself as the  
23 victim's "personal assistant" and "power of attorney," and he then  
24 briefly placed the victim on the call, who confirmed he needed  
25 "spending money." This transfer did not go through, and a smaller  
26 \$50,000 transfer was later made from the Interactive Brokers account  
27 to the PoA Account.

1 Defendant Flores had access to all the funds in the PoA  
2 Accounts, including through a debit card connected to the main PoA  
3 Account. Defendant Flores would use the main PoA Account to pay for  
4 all the victim's expenses, including food, medical care, and taxes,  
5 in addition to paying for both his and defendant Moore's own personal  
6 expenses. Defendants Flores and Moore also used funds from the PoA  
7 account to hire over a dozen assistants and other staff, whom  
8 defendants Flores and Moore would have work on various projects for  
9 both the victim and themselves, including defendant Flores's nascent  
10 public relations company called 3rd Star Creative, and defendants'  
11 window cleaning business and yoga studio. Defendants hired many of  
12 these assistants to purportedly work for 3rd Star Creative, which  
13 defendant Flores was trying to develop into a brand during his time  
14 with the victim. All these assistants, however, were paid for with  
15 the victim's funds. Defendant Flores would represent to others,  
16 including the assistants and defendant Moore, that the victim  
17 approved of his use of the victim's funds for things such as this,  
18 because the victim had purportedly become an "investor" in all of  
19 defendant Flores's ventures.

20 **D. Defendants' Time with the Victim**

21 Defendants lived fulltime with the victim at the Beach House  
22 following the victim's release from custody on September 17, 2017,  
23 until two days before the victim's death on May 27, 2018. During his  
24 time at the Beach House, defendant Flores continued to hold himself  
25 out as the victim's power of attorney, guardian, caretaker, friend,  
26 and confidante. In this role, defendant Flores exercised great  
27 control over the victim's life, including managing his financial  
28 affairs, managing the Beach House, managing the dozen or so staff and

1 assistants that worked for defendants and the victim, arranging the  
2 victim's medical appointments, managing his medications, and hiring  
3 various attorneys for the victim's ongoing criminal cases and a  
4 separate medical board investigation, among other tasks. Defendant  
5 Flores also interacted with the victim's only family members,  
6 including the victim's elderly mother and the victim's few long-time  
7 friends and neighbors.

8 As part of his control over the victim, defendant Flores would  
9 control what information was relayed to the victim and who could  
10 communicate with the victim. Defendant Flores also withheld  
11 information from the victim. He instructed assistants and the  
12 victim's treating physicians to not discuss or raise financial issues  
13 with the victim. Defendant Flores also directed the household  
14 assistants to frequently check the victim's mail and remove all legal  
15 and financial documents from the victim's incoming mail.

16 For the bulk of the time that defendants lived with the victim,  
17 between October 2017 and early May 2018, the victim was predominantly  
18 in a depressed state. He spent most of his time at the Beach House,  
19 getting hours of massages, which defendants arranged for him each and  
20 every day. The victim also consumed both prescribed and unprescribed  
21 drugs, which defendants -- primarily defendant Flores -- either  
22 facilitated the victim in receiving or directly provided.

23 The victim received approximately 43 prescribed ketamine  
24 infusions between October 2017 and his death in May 2018. The  
25 ketamine infusions were provided by a licensed physician for the  
26 treatment of the victim's depression. When the treating ketamine  
27 physician expressed alarm at the frequency of the victim's infusions,  
28 defendant Flores specifically requested that they continue and told

1 the physician that the victim wanted to maintain the frequency, as it  
2 was the only thing that brought him joy. The treating ketamine  
3 physician separately spoke with the victim, who confirmed he wanted  
4 to continue with the treatments. Defendant Flores also provided the  
5 victim with other drugs, including marijuana and psilocybin  
6 mushrooms, which were consumed between and in conjunction with the  
7 victim's prescribed ketamine treatments, and which were unbeknown to  
8 the victim's treating physicians.

9 Within approximately six months of living together, by late  
10 March 2018, defendants had spent approximately \$600,000 of the  
11 victim's funds, depleting the cash balance in the PoA Account.<sup>4</sup> In  
12 response, defendant Flores prepared a two-page written request for an  
13 additional \$1 million from the victim. (Ex. 6 (Def. Flores April  
14 2018 \$1M Cash Infusion Request).) The victim agreed to this request  
15 and helped initiate a transfer of \$1 million from his Interactive  
16 Brokers account to the PoA Account. The transfer was problematic and  
17 took multiple attempts and several days to clear. The transfer  
18 finally went through and was deposited into the PoA Account on April  
19 5, 2018. Through this, defendant Flores learned how to successfully  
20 conduct a wire transfer from the victim's Interactive Brokers  
21 account.

#### 22 **E. Financial Transfers Before the Victim's Death**

23 Approximately two weeks before the victim's death, on May 13,  
24 2018, defendants Flores and Moore took lysergic acid diethylamide  
25 ("LSD") with the victim at the victim's request. The victim believed  
26

---

27 <sup>4</sup> The initial amount in the PoA Account was funded from the  
28 surrender of the victim's life insurance policy, a \$100,000 transfer  
from victim's Fidelity account, and a \$50,000 transfer from victim's  
Interactive Brokers account.

1 that it would help his depression. After the initial LSD experience,  
2 defendant Flores continued to administer LSD to the victim, giving  
3 the victim LSD on multiple occasions within the final two weeks of  
4 the victim's life.

5 The victim entered a manic state following the ingestion of LSD.  
6 Massage therapists and assistants in the Beach House observed the  
7 victim act markedly different during this time. The victim became  
8 increasingly erratic and difficult to be around. Defendant Flores  
9 also reported to the victim's physician that he was worried that the  
10 victim's mania might be returning. (Ex. 7 (5/21/18 Physician notes  
11 documenting defendant Flores's concern that "mania may be  
12 returning"))).

13 Given the victim's severe mood swings and instability, defendant  
14 Flores became fearful that the victim would evict him and defendant  
15 Moore from the Beach House, as the victim had done the previous  
16 summer, and cut off defendant Flores's access to the PoA Account and  
17 the victim's money. This would have severely impacted defendants'  
18 lifestyle as well as their business and other ventures, which were  
19 all now heavily reliant upon the victim's wealth to operate.

20 Accordingly, hours after the victim took LSD on another  
21 occasion, defendant Flores initiated two \$1-million transfers from  
22 the victim's Interactive Brokers account to the PoA Account on the  
23 evening of May 23, 2018. These transfers were made without the  
24 victim's knowledge, consent, or approval; and unlike the prior  
25 transfer in April, there was no genuine reason for the transfer when  
26 the PoA Accounts still had an available balance of approximately  
27 \$700,000 given the recent cash infusion.

1           Within minutes of the transfers, defendant Flores directed a  
2 male assistant to call Interactive Brokers and impersonate the victim  
3 to check on the status of the wire transfers. Defendant Flores  
4 directed the male assistant to ensure that defendant Flores's cell  
5 phone number and an email address that defendant Flores controlled  
6 were listed on the account, so that the victim would not receive  
7 notifications of the pending wire transfers.

8           The following day, on May 24, 2018, the first \$1 million wire  
9 transfer initiated the day before was deposited into the PoA Account.  
10 Within minutes of the \$1 million deposit, defendant Flores caused the  
11 money to be transferred to his personal bank account.

12           That same day, the victim received his final ketamine infusion.  
13 According to medical reports, the victim appeared to be manic and  
14 "behaved very oddly compared to how he normally is," and the ketamine  
15 infusion was terminated early.

16           In sum, between May 23, 2018 and through May 24, 2018, defendant  
17 Flores caused three transfers, totaling \$1,676,179.32, from the PoA  
18 Accounts to bank accounts in defendant Flores's name only.

19           **F. Defendants' Leave the Beach House and Victim's Death**

20           On May 25, 2018, defendants Flores and Moore departed the Beach  
21 House. Defendant Flores would later tell the police that the victim  
22 "ordered" him to leave the Beach House. (Ex. 8 (5/28/18 LASD Report)  
23 at 4.) The victim was in a manic state at the time they departed.  
24 The victim was pacing around the Beach House, refusing to make eye  
25 contact with others, twitching his head, and occasionally talking to  
26 himself or laughing randomly, all consistent with a manic episode.

27           Defendants relocated to a hotel in Santa Monica, California,  
28 where they rented a room using the victim's funds. The victim



1 remained at the Beach House under the supervision of assistants and  
2 massage therapists. Defendant Flores had access to video cameras in  
3 the Beach House and monitored the victim's worsening condition over  
4 the next two days. He routinely provided instructions to those at  
5 the Beach House on what to do and how to respond to the victim's  
6 manic episode.

7 The victim died at the Beach House on May 27, 2018, at the age  
8 of 57 years old. The coroner determined the victim's death was an  
9 accident and caused by the combination of ketamine and ethanol  
10 intoxication. A second, private autopsy determined the cause of  
11 death to be the result of a dilated cardiomyopathy and a congenitally  
12 narrow right coronary artery. Blood toxicology reports from the  
13 second autopsy revealed "therapeutic levels of ketamine and a small  
14 amount of ethanol," which it determined "did not significantly  
15 contribute to the immediate cause of death."<sup>5</sup>

16 The final moments of the victim's life were captured on cameras  
17 installed inside the Beach House. (See Ex. 19 (5/27/18 Beach House  
18 video).) The victim's final moments are at odds with the obituary  
19 that defendant Flores later posted in the local newspaper that  
20 described victim dying "peacefully" and "doing what he loved doing  
21 most, watching wildlife from his seaside balcony and listening to the  
22 waves of the Pacific Ocean." (Ex. 9 (Def. Flores's email with  
23 obituary text; Palisadian-Post Obituary).)

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27  
28 <sup>5</sup> Neither autopsies had the benefit of events leading up to the  
victim's death and the circumstances of his death, including the LSD  
and other drug use.

1           **G.     Defendant's Actions After the Victim's Death**

2           After the victim's death on May 27, 2018, defendant Flores and  
3 defendant Moore conspired to defraud the victim's estate, through  
4 resisting efforts from the victim's estate to recover funds  
5 misappropriated from the victim, and later through the filing of  
6 false creditor's claims against the victim's estate.

7           The day after the victim's death, defendant Flores had a private  
8 phone call with his mother, during which they discussed what should  
9 be said about the victim's death and how to leverage the situation.  
10 Defendant Flores took notes during this call, and he texted defendant  
11 Moore the following notes from the call, "Good friend under difficult  
12 circumstances . . . We bonded and he trusted me . . . With a  
13 promise that I be promised a monetary amount he said take care of the  
14 [h]ouse and I want to you 20million." Defendant Flores then  
15 conferenced defendant Moore into the call with defendant Flores and  
16 his mother. Defendant Flores's mother expressed concern that  
17 defendant Flores would be held criminally responsible for the  
18 victim's death, and she told defendant Moore that they were counting  
19 on her to ensure that defendant Flores was not held responsible.

20           That same day, May 28, 2018, defendant Flores immediately hired  
21 an attorney, paying with the victim's funds. Defendant Flores used  
22 this attorney, and other attorneys he later retained, to help him  
23 devise ways to keep the fraudulently obtained funds that he caused to  
24 be deposited into his account. Defendant Flores, however, failed to  
25 provide this attorney with the full and complete facts of his  
26 relationship with the victim, the source of the funds, or the  
27 circumstances of the transfers that made their way into defendant  
28

1 Flores's personal accounts, including the victim's LSD use at the  
2 time of the transfers, among others.

3 Defendants returned to live at the Beach House after the  
4 victim's death. On the evening of May 28, 2018, defendant Flores,  
5 defendant Moore, and an assistant were reviewing the victim's  
6 financial accounts at the request of defendants' recently hired  
7 attorney. At a certain point, the assistant informed defendant  
8 Flores that the assistant had logged into the victim's Interactive  
9 Brokers account and saw that one of two \$1-million transfers  
10 initiated from the victim's Interactive Brokers account to the PoA  
11 Account on May 23, 2018 was still pending and required further  
12 approval. Defendant Flores instructed the assistant to approve the  
13 pending \$1-million wire transfer, which the assistant did at  
14 defendant Flores's direction.

15 After instructing the assistant to approve the transfer,  
16 defendant Flores looked at both the assistant and defendant Moore and  
17 told them words to the effect of that they "weren't here" and that  
18 they did not witness this transaction. Defendant Flores later told  
19 defendant Moore that no one would question the second transfer that  
20 he caused, because it would appear as if this transfer was initiated  
21 by the victim on May 23, 2018, and that it just took a few days to  
22 process. Defendant Flores later caused the transfer of this  
23 \$1 million into his personal accounts.

#### 24 **H. The Litigation Over the Victim's Estate**

25 Defendants continued to live at the Beach House for several  
26 weeks following the victim's death until the victim's family  
27 threatened legal action if defendants refused to leave.  
28

1        Around late June and July 2018, the victim's family learned of  
2 the transfers made to defendant Flores's accounts immediately before  
3 and after the victim's death. Before that time, the victim's family  
4 had no knowledge of the victim's true wealth. Defendant Flores was  
5 aware of this fact, and he had previously made statements to the  
6 victim's mother suggesting that the victim was destitute.<sup>6</sup> After  
7 learning of the transfers, the victim's family filed a probate  
8 petition against defendants, alleging claims of fraud, elder abuse,  
9 and conversion, to invalidate the transfers.

10        Later, on October 30, 2018, the victim's family filed a separate  
11 civil lawsuit in Los Angeles Superior Court against defendants for  
12 the same relief. Neither defendant Flores nor defendant Moore  
13 disclosed the full circumstances of the two \$1-million transfers  
14 during the subsequent civil litigation over the victim's estate.  
15 Rather, both defendants Flores and Moore provided false and  
16 misleading information about transfers.

17        The complaint filed in the civil litigation on October 30, 2018,  
18 alleged that, "On May 29, 2018 (two days after [the victim's] death),  
19 [defendant Flores] made a \$1 million disbursement from [the victim's]  
20 investment account to a bank account held in [the victim's] and  
21 [defendant Flores's] name." On April 4, 2019, defendant Flores  
22 signed a verified answer under the penalty of perjury which denied  
23 that allegation and stated, "The \$1,000,000 transfer was initiated by  
24 [the victim] before his passing and took several days to clear."  
25

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26  
27        <sup>6</sup> Indeed, before the victim's death, defendant Flores suggested  
28 that the victim's financial situation was so dire to the victim's  
mother that the mother routinely sent defendant Flores's information  
about the bankruptcy and other potential solutions to help her son,  
whom she was led to believe was disabled and essentially penniless.

1 Defendant Flores made similar statements in sworn written discovery  
2 responses. Defendant Flores knew these statements were false and  
3 misleading when he made them, as he had initiated the transfers  
4 before the victim's death without the victim's knowledge, and he  
5 released the pending transfer on the evening of May 28, 2018, after  
6 the victim's death.

7 Defendants transferred funds originating from the victim's  
8 Interactive Brokerage account, including the two \$1-million transfers  
9 that defendant Flores caused to be transferred, to multiple accounts  
10 in their separate and joint names. All these transactions involved  
11 funds that originated from the victim's accounts. Defendant Flores  
12 participated in these transfers knowing that the money transferred  
13 was from his unauthorized transfer of two \$1-million wires from the  
14 victim's Interactive Brokers account.

#### 15 **I. Defendants' Violation of Court Orders**

16 In the summer and fall of 2018, the victim's estate attempted to  
17 recover the funds taken from victim's accounts. In the civil lawsuit  
18 against defendants, the victim's estate sought judicial orders to  
19 compel defendants to return the victim's funds. But this lawsuit did  
20 not stop the defendants, and they violated court orders in the civil  
21 action ordering them to return the victim's funds to the victim's  
22 estate.

23 On November 9, 2018, the court in the civil action appointed a  
24 receiver and issued a temporary restraining order ("TRO") enjoining  
25 defendants from transferring, concealing, retaining, or dissipating  
26 any funds from the victim's accounts, and it further ordered  
27 defendants to return all funds from the victim's accounts to the  
28 receiver immediately. Defendants Flores and Moore were served with

1 these orders on November 13, 2018 and November 17, 2018. Defendants  
2 were fully aware of the TRO no later than November 15, 2018, after a  
3 Vanguard account representative told them that their account had been  
4 frozen due to a legal hold during a recorded phone call.

5 Despite the TRO, defendants did not surrender the funds to the  
6 receiver as required. Rather, defendants attempted to wire funds to  
7 new accounts and make multiple cash withdrawals. Just hours after  
8 Vanguard informed defendants that their account was frozen, and  
9 notwithstanding the TRO, defendants Flores and Moore visited multiple  
10 bank branches and attempted to withdraw money from their accounts  
11 during the afternoon of November 15, 2018. Defendants ultimately  
12 made two \$10,000 withdrawals from their Citibank accounts on November  
13 15, 2018. The same day, defendants later made a wire payment of  
14 \$100,000 in funds originating from the victim's accounts to attorneys  
15 they retained to represent them in civil litigation, all in violation  
16 of the TRO.

17 In a further attempt to obstruct the TRO, defendants Flores and  
18 Moore traveled to South Dakota on January 10, 2019, to open new bank  
19 accounts at First Premier Bank under a new corporate entity.  
20 Defendants opened these bank accounts to cash \$30,000 in checks from  
21 funds originating from the victim's accounts, which they were  
22 previously ordered to return to the receiver, as required by the TRO.

#### 23 **J. The Creditor's Claims Against the Victim's Estate**

24 In late 2018 and early 2019, as the receiver recovered the  
25 victim's funds on behalf of the estate, defendant Flores devised a  
26 scheme to defraud the victim's estate. Specifically, the scheme  
27 attempted to (1) justify defendants' retention of the approximate  
28 \$2.7 million that defendant Flores had transferred from the victim's

1 accounts immediately before and after the victim's death; and  
2 (2) defraud the victim's estate of even more money.

3 Over many months, defendant Flores devised this scheme as he  
4 continually altered defendants' explanations for why defendants were  
5 purportedly entitled to retain the money transferred to them before  
6 and after the victim's death, and why defendants should receive more  
7 money from the victim's estate. The explanations for why defendants  
8 were purportedly entitled to money from the victim's estate evolved  
9 over the course of many months, and they discussed filing various  
10 claims against the victim's estate, including wage and hour claims,  
11 sexual harassment, and other claims. Defendant Flores also coached  
12 defendant Moore as to what they should say in the civil litigation.  
13 Defendant Flores's claims to funds from the estate were premised on  
14 an ever-changing series of justifications, including: (1) claims  
15 based on the effect of the power of attorney; (2) various fabricated  
16 pending business deals between defendants Flores and Moore and  
17 victim; and (3) claims that the victim "promised" defendants Flores  
18 and Moore an inheritance of one-third of the victim's estate and the  
19 Beach House and was on the verge of changing his will before he died.

20 In furtherance of defendants' scheme to defraud the victim's  
21 estate, defendants Flores and Moore caused the mailing of four false  
22 creditor's claims, two by each of them, against the victim's estate  
23 on January 16, 2019, claiming that the victim had jointly promised  
24 them an inheritance of one-third of the victim's \$60-million estate  
25 and the Beach House. (Exs. 10, 11 (Def. Flores's creditor claims).)  
26 The creditor's claims contained a list of purported dates of these  
27 purported promises, with the descriptions of some bordering on  
28 absurdity. See id. at 4-8.

1 Both defendants were involved in the drafting of the creditor's  
2 claims, however, defendant Flores took primary responsibility for  
3 devising the dates of such purported promises and instructed  
4 defendant Moore what to write. Defendant Flores told defendant Moore  
5 that such statements must be included to make their claims viable,  
6 even though he knew them not to be true. Defendant Flores  
7 represented under the penalty of perjury that his statements in the  
8 claims were "true and correct," but defendant Flores knew them to be  
9 false and misleading. Defendant Flores made them nonetheless as part  
10 of his scheme to defraud the victim's estate.

11 After extensive litigation with the victim's estate, defendants  
12 Flores and Moore entered into a settlement agreement with the estate.  
13 As part of the settlement agreement, defendants agreed to a non-  
14 dischargeable, joint and severally liable judgment of \$1,000,000  
15 against them in favor of the victim's estate. Defendants Flores and  
16 Moore also agreed to withdraw their creditor's claims against the  
17 estate, which they did on July 17, 2019 -- approximately six months  
18 after defendants first filed the creditor's claims.

### 19 **III. THE PRESENTENCE REPORT AND GUIDELINES CALCULATION**

#### 20 **A. The PSR's Guideline Calculations**

21 The probation officer calculated the guidelines by grouping the  
22 offenses into two different groups: the Fraud Group and the Money  
23 Laundering Group. (PSR ¶¶ 83-88.) The probation officer then  
24 calculated the offense level by considering the offense level for the  
25 Money Laundering Group, and calculated the offense level as follows  
26 (PSR ¶¶ 89-105):  
27  
28



<b>Money Laundering Group</b>		
Base Offense Level:	7	U.S.S.G. § 2S1.1(a)(1), § 2B1.1(a)(1)
Specific Offense Characteristics:		
- Loss amount between \$3.5 and \$9.5 million	+18	U.S.S.G. § 2B3.3(b)(1)(J)
- Violation of court order	+2	U.S.S.G. § 2B1.1(b)(9)(c)
- § 1956 Conviction	+2	U.S.S.G. § 2S1.1(b)(2)(B)
Victim Enhancement:		
- Vulnerable Victim Enhancement	+2	U.S.S.G. § 3A1.1(b)(1)
Acceptance of Responsibility:	-3	U.S.S.G. § 3E1.1(a), (b)
<b>Total Offense Level</b>	<b>28</b>	

Defendant Flores has zero criminal history points and is in Criminal History Category I. With total offense level of 28 and Criminal History Category of I, the probation office calculates defendant Flores's resulting sentencing guidelines are 78 to 97 months' imprisonment.

#### **B. Government's Objections to the PSR**

By considering only the Money Laundering Group, the PSR's calculation fails to apply certain offense-related adjustments applicable to defendant Flores's fraud conduct, namely, the four additional adjustments the government seeks below for (1) the conscious or reckless disregard or risk of death, (2) abuse of position of trust, (3) obstruction of justice, and (4) an aggravating role. This is because the commentary to § 2S1.1 limits Chapter 3 Adjustments to only those related to "the offense covered by this guideline (i.e., the laundering of criminally derived funds) and not

1 on the underlying offense from which the laundered funds were  
2 derived.” U.S.S.G. § 2S1.1, Application Note 2(C); United States v.  
3 Capps, 977 F.3d 250, 255 (3d Cir. 2020); Id. at 257 n.7 (collecting  
4 cases); United States v. Arellanes-Portillo, 34 F.4th 1132 (10th Cir.  
5 2022). This causes the PSR to omit multiple Chapter 3 enhancements  
6 that apply to defendant Flores’s conduct.

7 To accurately calculate defendant Flores’s guidelines, the PSR  
8 should calculate the guidelines for both the Fraud and Money  
9 Laundering Group separately and then choose the higher of the two.  
10 See Capps, 977 F.3d at 255, 257 (adopting approach for calculation of  
11 mail fraud and money laundering counts and stating “[t]he PSR did not  
12 calculate the mail fraud guidelines range, though it should have”);  
13 U.S.S.G. § 3D1.2(d) and Application Note 6; U.S.S.G. § 3D1.3 and  
14 Application Note 3.

15 For these reasons, the government objects to the PSR’s use of  
16 the guidelines for the Money Laundering Group and its failure to  
17 calculate the guidelines for the Fraud Group to determine defendant  
18 Flores’s guidelines calculation.

### 19 **C. Government’s Proposed Guidelines Calculation**

20 Defendant Flores’s Fraud Group convictions permit the  
21 application of additional Chapter 3 Adjustments. The application of  
22 these four additional adjustments -- (1) conscious or reckless  
23 disregard of death; (2) abuse of a position of trust; (3) obstruction  
24 of justice in the civil proceeding; and (4) aggravating role for  
25 manager or supervisor of others -- in addition to the vulnerable  
26 victim enhancement, results in a higher offense level than the Money  
27 Laundering Group. It therefore is the appropriate offense level to  
28

determine defendant Flores's guidelines here. See U.S.S.G. § 2S1.1, Application Note 6; U.S.S.G. § 3D1.3(a).

The government submits that the correct guidelines calculation is based on the Fraud Group as shown below:

<b>Fraud Group</b>		
Base Offense Level:	7	U.S.S.G. § 2B1.1(a) (1)
Specific Offense Characteristics:		
- Loss amount between \$3.5 and \$9.5 million	+18	U.S.S.G. § 2B3.3(b) (1) (J)
- Violation of court order	+2	U.S.S.G. § 2B1.1(b) (9) (c)
- Conscious or reckless risk of death	+2	U.S.S.G. § 2B1.1(b) (16) (A)
Adjustments:		
- Vulnerable Victim Enhancement	+2	U.S.S.G. § 3A1.1(b)
- Abuse of Position of Trust	+2	U.S.S.G. § 3B1.3
- Obstruction of Justice	+2	U.S.S.G. § 3C1.1
- Aggravating Role for Leader of Manager	+2	U.S.S.G. § 3B1.1(c)
Acceptance of Responsibility:	-3	U.S.S.G. § 3E1.1(a), (b)
<b>Total Offense Level</b>	<b>34</b>	

Defendant Flores has zero criminal history points and is in Criminal History Category I. With total offense level of 34 and Criminal History Category of I, defendant Flores's resulting sentencing guidelines are 151 to 188 months' imprisonment.

1           **D. Government's Proposed Offense Characteristics/Adjustments**

2           1.   The Agreed-Upon +18 Loss Enhancement is Conservative

3           The parties agreed to a +18 enhancement in the plea agreement  
4 for a loss amount between \$3.5 million and \$9.5 million under  
5 U.S.S.G. § 2B1.1(b)(1)(J). This is a conservative loss amount  
6 reflecting a compromise between the actual loss of approximately \$3.1  
7 million and the intended loss of \$20 million.

8           The actual loss attributable to defendant's conduct is  
9 \$3,128,856.46. This is the amount that the receiver in the civil  
10 action determined that defendant Flores and Moore misappropriated  
11 from the victim and his estate. (PSR ¶ 80.) The receiver ultimately  
12 recovered \$2,089,448.82 in victim's funds from defendants, leaving  
13 the remaining \$1,039,407.64 that was spent or diverted.<sup>7</sup> The amount  
14 the receiver recovered, however, is not credited against defendants'  
15 actual loss because it was not voluntarily returned to the victim's  
16 estate "before the offense was detected." U.S.S.G. § 2B1.1,  
17 Application Note 3(E)(i). Accordingly, the actual loss amount of  
18 \$3,128,856.46 would trigger the +16 enhancement for a loss amount  
19 between \$1.5 million and \$3.5 million under § 2B1.1(b)(1)(I).

20           The intended loss attributable to defendant's conduct is  
21 approximately \$20 million. This stems from defendant Flores's false  
22 claim after the victim's death that he and defendant Moore were  
23 promised one-third of the victim's \$60-million estate and the Beach  
24 House, which exceeds \$20 million in total. (PSR ¶ 89.) Accordingly,  
25 the intended loss amount of approximately \$20 million would trigger  
26

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27  
28           <sup>7</sup> The number in the PSR has a typo in the first digit and states  
that "[t]he receiver recovered \$1,089,448.82." PSR ¶ 82. The first  
digit should be a 2.

1 the +20 enhancement for a loss amount between \$9.5 million and \$25  
2 million under § 2B1.1(b) (1) (K) .

3 In light of the difference between the two loss amounts and  
4 recognizing that defendant Flores withdrew his false claims, although  
5 only after the victim's estate spent millions of dollars in  
6 litigation, the government concurs with the probation office's  
7 decision to use the +18 enhancement for a loss amount between \$3.5  
8 million and \$9.5 million under U.S.S.G. § 2B1.1(b) (1) (J) .

9  
10 2. Defendant's Conduct Involved the Conscious or Reckless  
Risk of Death

11 Defendant Flores's conduct during the final days and hours of  
12 the victim's life involved the conscious or reckless risk of death.  
13 The enhancement applies even if there is no injury or harm, see  
14 United States v. W. Coast Aluminum Heat Treating Co., 265 F.3d 986,  
15 993 (9th Cir. 2001). Here, of course, there was harm as the victim  
16 ultimately died from defendant's grossly reckless conduct.

17 To establish that a defendant's conduct warrants the application  
18 of § 2B.1(b) (16) (A), the government "need not show actual injury to  
19 any particular victim" and must instead focus on a defendant's  
20 "disregard of risk." United States v. Henderson, 893 F.3d 1338,  
21 1351-52 (11th Cir. 2018). Ignorance of the risk is not a defense to  
22 the enhancement. United States v. Johansson, 249 F.3d 848, 859 (9th  
23 Cir. 2001) ("[A] defendant does not have to subjectively know that  
24 his conduct created the risk.").

25 There can be little doubt that defendant Flores created a  
26 situation that involved the reckless risk of death during the final  
27 days of the victim's life. Defendant Flores specifically gave the  
28 victim LSD on multiple occasions, while the victim was in a downward

1 manic spiral. The LSD had a significant effect on the victim. And  
2 the victim got much worse.

3 Defendant Flores failed to heed any warning as the victim's  
4 condition severely deteriorated. Defendant Moore warned defendant  
5 Flores via text message in the early morning hours on May 23, 2018 --  
6 just four days before the victim's death -- that the LSD was causing  
7 the victim to stay up all night, texting defendant Flores that the  
8 victim "was up until 5am last night. As we know when he does acid,  
9 he doesn't sleep. . . Maybe we can cut back on the tr[i]pping [LSD]  
10 because it seems to exacerbate." See Ex. 12 at USAO\_8457.<sup>8</sup> But  
11 defendant Flores disregarded this warning, and told defendant Moore  
12 that he thought it was helping the victim.

13 Later that day, May 23, 2018, defendant Flores initiated a  
14 change in the two-factor authentication feature of the victim's  
15 Interactive Brokerage account and then he initiated the two \$1-  
16 million transfers from the victim's account to the PoA account.

17 Defendant Flores's disregard of the situation continued further  
18 on May 24, 2018. Defendant Flores helped facilitated the victim's  
19 final ketamine infusion. Defendant Flores never disclosed the  
20 victim's repeated LSD use in the recent days despite his self-  
21 proclaimed status as the victim's guardian, caregiver, manager, and  
22 power of attorney.

23 By May 24, 2018, the victim was in clear mental distress. A  
24 surreptitiously recorded video found on defendant's Google account  
25 from May 24, 2018 captures the victim's current state. In that  
26

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27 <sup>8</sup> According to the Diagnostic and Statistical Manual of Mental  
28 Disorders-5, sleep is essential to the treatment of bipolar disorder  
and the decreased need for sleep heralds the onset of a manic  
episode.

1 video, the victim, in a clearly distressed or inebriated voice, is  
2 mumbling and saying he "feel[s] better than he ever has." See Ex. 18  
3 at 3:00-3:34 (5/24/18 video). Defendant's response is "take it slow  
4 . . . enjoy yourself." The victim then mumbles that he is "born  
5 again, born again."

6 Defendant Flores's recklessness continued over the last two days  
7 for the victim's life. After the victim kicked defendant out of the  
8 Beach House in a manic state on May 25, defendant Flores -- who held  
9 himself out as the victim's guardian and caregiver -- watched the  
10 final two days of the victim's life through cameras inside the Beach  
11 House. Defendant Flores had access to these cameras and watched the  
12 victim severely decompensate over a matter of hours. The final hour  
13 of the victim's life shows him acting erratically. See Ex. 19  
14 (5/29/18 Beach House Video) at 19:00-30:00/58:50. But defendant  
15 Flores watched this video, as he admits, and did not seek medical  
16 attention, even when others in the home raised their concerns to him  
17 via text message. And the victim ultimately died.

18 The probation office declined to add this enhancement because  
19 "it cannot be conclusively determined that LSD had caused or  
20 contributed to the victim's death." (PSR ¶ 89(d).) But the  
21 probation office is looking at only a portion of defendant Flores's  
22 conduct, only focusing on his administering LSD to victim. This is  
23 too narrow. The appropriate inquiry is to look at the totality of  
24 the circumstances and the "creation of risk," not whether the conduct  
25 actually inflicted injury or "even if the ultimate probability of  
26 [injury] is found to be relatively low." W. Coast Aluminum, 265 F.3d  
27 at 993. Moreover, the probation officer both overlooks the reckless  
28 risks that defendant Flores created, and more importantly, it

1 overlooks defendant's unique position of trust, duty, and  
2 responsibility vis-à-vis the victim, serving as his caregiver,  
3 guardian, and power of attorney.

4 Looking at the totality of risks shows that defendant Flores  
5 created a highly unstable and reckless situation. See U.S.S.G.  
6 § 2A1.4, Application Note 1 (defining "reckless" to include a "gross  
7 deviation from the standard of care that a reasonable person would  
8 exercise in such situation"). A reasonable person would recognize  
9 that this was risky situation. In fact, even the massage therapist  
10 still at the home raised her concerns and she sent defendant Flores  
11 texted and called him approximately seven times that day. (See Exs.  
12 13 (5/27/18 Text Messages) and 14 (Def. Flores's phone records).) It  
13 is of no consequence if defendant Flores subjectively (and  
14 erroneously) viewed the risk as minimal. See United States v.  
15 Johansson, 249 F.3d 848, 859 (9th Cir. 2001) (government does not  
16 have to prove that the defendant was actually aware of the risk of  
17 serious bodily injury or death when seeking a § 2B1.1(b) (13)  
18 enhancement); United States v. Maestas, 642 F.3d 1315, 1321 (10th  
19 Cir. 2011). This risk was still present and the victim died.  
20 Accordingly, this enhancement applies.<sup>9</sup>

### 21 3. Defendant Abused a Position of Trust

22 Defendant Flores also abused a position of private trust  
23 triggering the § 3B1.3 enhancement. That enhancement states, "If the  
24 defendant abused a position of public or private trust . . . in a  
25  
26

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27 <sup>9</sup> In the alternative, if the Court declines to apply this  
28 enhancement, an upward variance is still appropriate because of the  
victim's death. See U.S.S.G. § 5K2.1 ("If death resulted, the court  
may increase the sentence above the authorized guideline range.").



1 manner that significantly facilitated the commission or concealment  
2 of the offense, increase by 2 levels." U.S.S.G. § 3B1.3.

3 Here, defendant Flores assumed a position of trust with the  
4 victim. He secured two powers of attorney from the victim, which he  
5 then used to his benefit to later defraud the victim. These powers  
6 of attorney specifically stated that defendant Flores was "assum[ing]  
7 the fiduciary and other legal responsibilities of an agent," and that  
8 he had a legal duty to "keep the principal's property separate and  
9 distinct" and "not transfer the principal's property to [himself]  
10 without full and adequate consideration or accept a gift." (Ex. 3  
11 (PoA) at 4.) Defendant Flores, of course, violated these  
12 restrictions and breached the duties of his position of trust.

13 But defendant Flores abused more than the power he derived from  
14 the powers of attorney. Defendant Flores also abused the personal  
15 trust that the victim had placed in him. Defendant Flores assumed  
16 the role of caregiver and confidante of the victim, among other  
17 roles. Defendant Flores isolated the victim from his family and few  
18 longtime friends and he fostered the victim's alienation from them.  
19 Indeed, none of the victim's family or close friends ever really  
20 spoke to the victim after his release from custody in September 2017,  
21 because defendant Flores prevented that communication and had assumed  
22 significant control over the victim. By assuming this position of  
23 trust, defendant Flores ultimately got access to the victim's immense  
24 wealth, which he used to defraud the victim. But by assuming this  
25 position of trust, defendant Flores assumed a special duty to the  
26 victim, one that he ultimately abused for his own benefit. All of  
27 this qualifies for the abuse-of-trust enhancement.

1           The probation office recognized defendant Flores's abuse of  
2 trust in this case, stating "after Flores obtained powers of attorney  
3 to bail the victim out of jail, he began to act as the victim's  
4 caregiver and made medical and financial decisions on the victim's  
5 life, and continued to access the victim's funds to fund his  
6 lifestyle and his business projects, and exercised much control over  
7 the victim's life, [and] he was able to transfer the victim's funds  
8 into his personal account immediately before and after the victim's  
9 death." (PSR ¶ 100.)<sup>10</sup> Despite this, the probation office declined  
10 to apply the enhancement because defendant Flores's money laundering  
11 was not necessarily based on his position of trust, relying on  
12 Application Note 2(C) to U.S.S.G. § 2S1.1. (PSR ¶¶ 99, 100.) This  
13 position fails to recognize that defendant's abuse of trust applies  
14 to the Fraud Group counts, and results in a higher offense level when  
15 added to the other enhancements. Accordingly, this enhancement  
16 should be applied.

17           4.   Defendant Obstructed Justice in the Civil Action

18           Defendant Flores obstructed and impeded the administration of  
19 justice during the civil litigation over the victim's estate. He  
20 repeatedly attempted to obstruct justice during that litigation in  
21 order to conceal his crimes and to defraud the victim's estate. In  
22 doing so, he repeatedly lied under oath during depositions and sworn  
23 written responses regarding the true events surrounding the financial  
24 transfers around the victim's death, the victim's drug use (which  
25 defendant Flores facilitated), his role in all of this, and many  
26  
27

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28           <sup>10</sup> Defendant Moore did not hold the same level of trust with the  
victim nor was did she have the power of attorney. (PSR ¶ 100.)

1 other items. This is sufficient to trigger the § 3C1.1 obstruction  
2 enhancement.

3 Defendant Flores, for example, denied having any knowledge of  
4 the victim taking LSD in his second deposition on August 22, 2019.  
5 (Ex. 15 at 29.) In his deposition the following day, defendant  
6 continued to disavow all knowledge of the LSD at first, but then he  
7 reversed course mid-way through his deposition and started to admit  
8 giving the victim LSD, as follows:

9 Q. You mentioned the last time that we spoke that you  
10 don't know whether [victim] ever used LSD around you.  
Do you recall that?

11 A. I do.

12 Q. Do you stand by that statement?

13 A. I do.

14 . . .

15 Q. How many times did you drop acid with [victim]?

16 A. None.

17 Q. The first time you dropped acid with [victim] was  
18 Mother's Day of 2018. Do you remember that?

19 A. I do.

20 Q. Tell me about that day.

21 A. We gathered. We had food. We ingested a substance  
22 which I cannot discern is LSD, and we enjoyed our day  
together, watching the sunset and talking and being  
around the bush or being around the beach.

23 . . .

24 Q. Did you ever yourself help dose some LSD out for  
25 [victim]?

26 A. I did.

27 (Ex. 15 at 63, 65, 68.)  
28

1 Defendant Flores gave misleading testimony regarding the  
2 millions of dollars that he transferred out of the victim's accounts  
3 to his personal accounts as well. In his second deposition,  
4 defendant Flores testified that the "[victim] initiated the  
5 transfer[s]" of the two \$1-million wires before the victim's death,  
6 which the victim supposedly made while under the influence of LSD and  
7 in a manic state. (Id. at 40-41.) But two months later, defendant  
8 Flores testified that "[w]e were instructed to initiate the  
9 transfers." (Id. at 74.) Defendant Flores now admits both were  
10 lies.

11 Defendant Flores also gave false sworn written answers during  
12 the civil litigation to conceal the transfers that he now admits were  
13 unauthorized. For example, defendant lied in his verified answer,  
14 again claiming that the two \$1-million transfers before and after the  
15 victim's death were made or authorized by the victim. This of course  
16 was false as defendant Flores now concedes. See supra at II.H.

17 The reasons for defendant's perjury was clear: defendant knew  
18 that no one would believe he was lawfully entitled to the \$2.7  
19 million that he transferred to himself in the hours before and after  
20 the victim's death if he disclosed the truth, i.e., that he made the  
21 transfers without the victim's knowledge, while the victim was under  
22 the influence of LSD and other drugs, and in a manic state. He knew  
23 that he if told the truth he would be required to return the stolen  
24 funds and be subject to criminal prosecution. So he lied. And in  
25 doing so, he obstructed the administration of justice. See U.S.S.G.  
26 § 3C1.1, Application Note 4(B) (obstruction of justice includes  
27 "committing, suborning, or attempting to suborn perjury, including  
28

1 during the course of a civil proceeding if such perjury pertains to  
2 conduct that forms the basis of the offense of conviction").

3 Defendant Flores continued his obstruction of justice throughout  
4 the civil proceedings. This conduct forced the victim's family to  
5 spend millions of dollars in legal fees to expose these lies. All  
6 this is deserving of the obstruction enhancement.

7 5. Defendant Flores Was an Organizer and Leader

8 Finally, a +2 enhancement under § 3B1.1(c) applies for defendant  
9 Flores's aggravating role in the fraud. Defendant Flores was the  
10 instigator and ringleader of the entire fraud. See PSR ¶ 97. During  
11 the victim's life, defendant Flores was the one who got the powers of  
12 attorney, developed a position of trust over the victim, fostered the  
13 victim's alienation with the victim's family members and few friends,  
14 fostered a culture of near daily drug use and hours of massages for  
15 the victim, administered LSD to the victim, and transferred money  
16 from the victim's account to defendant Flores's personal account.<sup>11</sup>

17 After the victim's death, defendant Flores devised a plan to  
18 falsely claim that the victim made a "promise" that defendant Flores  
19 and Moore were entitled to one-third of the victim's estate and the  
20 Beach House. This culminated in the filing of the false creditor's  
21 claims against the estate. As part of this scheme, defendant Flores  
22 created a false narrative that the victim had promised them a third  
23

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24  
25 <sup>11</sup> Defendant Flores instructed a male assistant to impersonate  
26 victim day after victim's death to approve of pending \$1 million  
27 transfer. (See PSR ¶ 97.) But this assistant is not a criminally  
28 responsible co-participant because he thought the transfers were  
authorized and that defendant Flores had the authority to tell him to  
impersonate the victim, because defendant Flores had instructed the  
assistant to do so on prior occasions and told him he was authorized  
to do so to alleviate the administrative burden of these tasks for  
the victim.

1 of his estate and the Beach House on numerous purported occasions.  
2 And he directed defendant Moore to draft a claim with dates and the  
3 information that he provided. Information that defendant Flores knew  
4 to be false. Defendant Flores later coached defendant Moore as to  
5 what to say during the civil litigation to conceal his criminal  
6 actions, including defendant Flores's transfer of funds, the drug  
7 use, and all of his suspicious conduct.

8 Because defendant Flores organized this part of the scheme and  
9 directed defendant Moore in it, and because she is a criminal  
10 responsible co-participant, a +2 enhancement under § 3B1.1(c) applies  
11 to defendant Flores.

#### 12 **IV. VICTIM IMPACT OF DEFENDANT FLORES'S OFFENSES**

13 The government is filing a Victim Impact Statement from the  
14 victim's family under seal for the Court's consideration. (Ex. 1  
15 (Victim Impact Statement).) A representative of the victim's family  
16 will appear at sentencing to address the Court, as permitted under  
17 the Crime Victims' Rights Act. See 18 U.S.C. § 3771(a)(4),  
18 (e)(2)(B).

#### 19 **V. GOVERNMENT'S RECOMMENDED SENTENCE**

20 The government recommends defendant be sentenced to 180 months'  
21 imprisonment (15 years), followed by three years of supervised  
22 release, and a special assessment of \$900. This recommendation is  
23 sufficient, but not greater than necessary, to achieve the factors of  
24 18 U.S.C. § 3553(a).

##### 25 **A. The Seriousness of Offense**

26 The seriousness of defendant's offense calls for a serious 15-  
27 year sentence. Defendant Flores orchestrated a fraud against the  
28

1 victim and his estate over the course of years, causing millions of  
2 dollars in losses.

3 While alive, defendant Flores took control of the victim's life  
4 and finances through the powers of attorney and his cultivation of a  
5 position of trust with the victim. After bailing the victim out of  
6 jail, defendant Flores fostered the vulnerable victim's dependence on  
7 him, while alienating him from others. Indeed, defendant Flores  
8 misled the victim's family and few friends about what was going on in  
9 the Beach House, all while his undue influence over the victim grew.

10 Defendant Flores gained his influence over the victim during the  
11 victim's life by withholding information from the victim and  
12 fostering the then-depressed victim into a state of complacency,  
13 through hours of massages each day and chemical dependency through  
14 frequent use of ketamine injections, marijuana, and other later  
15 drugs. Defendant Flores then isolated the victim from his family and  
16 friends. Defendant Flores capitalized on the victim's anger at his  
17 friends' and family's decision to not immediately bail him out of  
18 jail, which they delayed in doing so in order to put together a  
19 comprehensive medical plan to treat the victim. He used the victim's  
20 anger to alienate him from his family and few friends. These family  
21 members and friends tried their best to intervene in the victim's  
22 life, with conservatorship attorneys and contacting the victim. But  
23 defendant Flores erected roadblocks which prevented them from  
24 reaching the victim, preventing them from saving the victim.

25 Once he established a position of trust over the victim and got  
26 access to the victim's finances, defendant Flores then abused that  
27 relationship for his own private gain, including using the victim's  
28 resources for a host of other personal ventures that had no

1 legitimate connection or benefit to the victim. The victim  
2 essentially became defendant Flores's personal slush fund.

3 Defendant Flores kept this scheme afloat for many months. He  
4 even got the victim to transfer \$1 million into the PoA Account in  
5 April 2018, after preparing a business proposal to request the victim  
6 replenish the PoA Account. All this came crashing down in May 2018,  
7 when the victim's mania returned. Witnesses reported that the  
8 victim's initial LSD trips seemed to help him, but the additional LSD  
9 quickly made the situation much worse, and the victim went into a  
10 mental tailspin. The victim's mania jeopardized the multiple  
11 ventures that defendant Flores had created with the victim's wealth.  
12 It risked everything that defendant Flores had created with the  
13 victim's money. And defendant Flores feared that the victim would go  
14 manic and evict him and defendant Moore (and cut off their access to  
15 his funds), just as the victim had done the prior summer.

16 But after tasting the good life for a bit and enjoying his  
17 newfound success, all of which was paid for with the victim's money,  
18 defendant Flores decided to take matters into his own hands and  
19 create an insurance policy. Days before the victim died, defendant  
20 Flores initiated the two \$1-million transfers from the victim's  
21 accounts, without the victim's knowledge or consent, to give him a  
22 financial lifeline to support his ventures in case the victim evicted  
23 defendant Flores from the Beach House (which did happen) and cut off  
24 his financial access. Defendant Flores did this likely believing  
25 that if the victim went into a manic tailspin, the victim would be  
26 arrested or hospitalized again and that he could come to the rescue.

27 Sadly, however, due to the multiple reckless risks that  
28 defendant Flores created in order to keep the victim complacent and



1 his grift afloat, the victim died. Tragically and alone. At 57  
2 years old.

3 Rather than be candid about the events of the victim's death and  
4 accept even a modicum of responsibility for his role in it, defendant  
5 Flores then tried to profit off the victim's death. He lied about  
6 his involvement and how the victim died. Then, believing that he was  
7 entitled to something, he devised a variety of false means and  
8 pretenses to try to justify the money he had siphoned from the  
9 victim's accounts, and then he came up with an even bolder claim --  
10 one of a fake promise that he would inherit a third of the estate --  
11 in an attempt to defraud over \$20 million from the victim's estate.

12 In recommending this sentence, the government readily  
13 acknowledges that defendant Flores likely never intended to  
14 physically harm the victim. On the contrary, defendant Flores  
15 provided care to the victim and likely wanted him to get better (and  
16 the victim did improve at some point as evidenced by his restoration  
17 of competency in his criminal matters). The government does not  
18 contest this. It made little sense for defendant Flores to want any  
19 harm to befall his newfound benefactor, as the victim had become  
20 defendant Flores's golden goose. But human beings are complex and a  
21 person can hold both altruistic and nefarious criminal motives  
22 simultaneously. And like any caregiver scheme, a defendant can both  
23 provide care, even good care, while simultaneously taking advantage  
24 of their dependent victim. Both can be true. And that is what  
25 happened here.

26 It is no defense that defendant Flores did not intend the  
27 victim's death either. Just as saying "I didn't mean to harm him" is  
28 no defense to a drug dealer who distributed the fatal dose to their

1 customer, the same is true here. That defendant Flores didn't mean  
2 to cause the victim's death is somewhat mitigating, but it still  
3 demands accountability. To the extent defendant Flores claims it was  
4 a tragedy (and he should not and cannot), it was a tragedy entirely  
5 of defendant Flores's own making. And the victim paid the price.

6 Most troubling about the events is defendant Flores's attempted  
7 coverup. Throughout it all, defendant Flores lied, concealed the  
8 truth, and obstructed justice. This required the victim's family to  
9 spend over \$5 million in legal fees to contest defendant Flores's  
10 actions in various legal proceedings, including in the probate case,  
11 the civil action, and defendant Flores's later attempt to discharge  
12 his \$1 million judgment in bankruptcy. See Victim Impact Statement,  
13 Att. #2. All of this conduct is serious and it demands a strong  
14 sentence.

15 **B. Defendant's History and Characteristics**

16 Defendant's history and characteristics demand this sentence as  
17 well. This crime was largely one fueled by defendant Flores's greed,  
18 vanity, and narcissism. As defendant Flores exercised more and more  
19 control over the victim's life, he became emboldened. He began to  
20 think that he knew better than the victim's doctors and other medical  
21 professionals, by virtue of failure to disclose the victim's true  
22 drug use, and he was unwilling to listen to anyone that questioned  
23 his authority. He even brushed off suggestions from codefendant  
24 Moore that they should stop giving the victim LSD, suggestions that  
25 if defendant Flores heeded may have resulted in a very different  
26 outcome. The victim may still be alive.

27 It also must be noted that defendant Flores was the driving  
28 force behind all of this. He was the instigator of this crime and he

1 dragged defendant Moore into this situation along with him. And  
2 there is no doubt that this crime would have never occurred if not  
3 for defendant Flores's grandiose view of self and narcissism. The  
4 recommended sentence will hopefully force defendant Flores to come to  
5 terms with this and learn from his mistakes and flaws.

6 Defendant, in mitigation, has no criminal history. Defendant  
7 reports other obstacles in his life, but the government takes no  
8 position on them (or their veracity), as they simply do not excuse  
9 his prolonged fraudulent conduct in this case or the fact that the  
10 victim died. There is no excuse or mitigation for stealing from a  
11 vulnerable victim like the victim in this case. And there is no  
12 excuse for attempting to defraud the victim's heartbroken family  
13 after his death. Defendant must face the punishment for his crimes.

14 **C. Need for Just Punishment, Adequate Deterrence, and Promote**  
15 **Respect for the Law**

16 A 15-year sentence is also necessary for the other § 3553(a)  
17 factors. This sentence reflects the seriousness of the crime, a  
18 multi-million-dollar fraud that undoubtedly contributed to the  
19 untimely death of a brilliant but ill physician. Such a sentence  
20 provides just punishment, as defendant will likely be incarcerated  
21 through his 60th birthday, which is just three years older than the  
22 age of the victim when he tragically died at 57 years old.

23 This sentence will also provide adequate deterrence. It will  
24 send a message to others that caregiver fraud schemes targeting  
25 elderly and vulnerable victims are significant crimes and will face  
26 significant sentences. This is particularly important, as this  
27 scheme is all too common with today's aging population. Sadly, the  
28 government has received numerous reports of similar frauds involving

1 similarly vulnerable victims since this case went public. There are  
2 other victims out there and other fraudsters doing similar schemes.  
3 A message must be sent to society. Potential abusers must know that  
4 they will get caught and punished.

5 Finally, the sentence will afford defendant Flores the  
6 opportunity to learn from his criminal lapses in judgment.  
7 Defendant's time in prison will force him to recognize his errors and  
8 have respect for the law and the legal process.

9 **D. Need to Avoid Unwarranted Sentencing Disparity**

10 Finally, § 3553(a)(6) requires the Court to impose a sentence to  
11 avoid unwarranted sentence disparities among defendants with similar  
12 records who have been found guilty of similar conduct. United States  
13 v. Goff, 501 F.3d 250, 258 (3d Cir. 2007) ("Part of 'just punishment'  
14 is the avoidance of unwarranted sentencing disparities"). A sentence  
15 within the guidelines range is usually the best way to avoid  
16 sentencing disparities. See United States v. Mares, 402 F.3d 511,  
17 518-19 (5th Cir. 2005).

18 The government recommends a guidelines sentence here because it  
19 is the best way to avoid unwarranted sentencing disparity. According  
20 to the U.S. Sentencing Commission's Judiciary Sentencing  
21 Information,<sup>12</sup> the average and median length of imprisonment for  
22 defendants at this offense level (34) and guideline (U.S.S.G.  
23 § 2B1.1) is approximately 120 and 121 months, respectively. The  
24 government is mindful that this data also shows that approximately  
25 25% of defendants in this selected cell on the sentencing chart  
26

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27  
28 <sup>12</sup> This feature of the U.S. Sentencing Commission is available  
online at <https://jsin.ussc.gov/> and is designed to help judges  
determine sentences for similarly situated defendants.

1 received a guideline sentence, while 42% received a downward  
2 departure or variance, and the remaining received upward departures  
3 or credit under U.S.S.G. § 5K1.1. While most defendants get  
4 variances, the government is not recommending one here because the  
5 government was also conservative in its calculation of the guidelines  
6 and did not include the higher intended loss amount. See supra  
7 III.D.1. In addition, the government's agreement to drop the § 1028A  
8 count that would have added another consecutive two years to  
9 defendant's sentence cuts against any variance.

10 Lastly, the government notes that a defendant in the Central  
11 District of California received a 20-year sentence for a caregiver  
12 scheme. See United States v. Caroline Joanne Herrling, Case No.  
13 2:23-CR-59-MEMF (C.D. Cal.); see West Hills Woman Who Disposed of One  
14 Victim's Body Sentenced to 20 Years in Federal Prison for Stealing  
15 Identities, Homes and Assets. That defendant's conduct was more  
16 egregious than defendant Flores's here, and included defendant's  
17 disposal of the victim's body, identity theft, other victims, and  
18 potential other crimes. The government does not recommend that  
19 sentence here because defendant Flores was not as callous.  
20 Therefore, there is no unwarranted sentencing disparity between these  
21 two defendants.

#### 22 **E. Recommended Term of Supervised Release**

23 The government recommends a three-year term of supervised  
24 release. Such a term is necessary to ensure defendant Flores remains  
25 law-abiding and begins to pay restitution to the victim's estate. In  
26 addition, as a term of supervised release, the government requests  
27 that the Court impose a condition prohibiting defendant Flores from  
28 contacting the victim's family either directly or through third

1 parties. Such condition is reasonably related to adequate deterrence  
2 and protection of the public and the victim's family.

3 **F. Restitution**

4 Defendants Flores and Moore agreed to a stipulated, non-  
5 dischargeable \$1,000,000 judgment against them in the civil action.  
6 See Los Angeles Superior Court Case 18SMCV00134. Notwithstanding his  
7 agreement that the amount would be non-dischargeable in bankruptcy,  
8 defendant Flores later attempted to discharge this debt in  
9 bankruptcy. See In re Bankruptcy of Anthony David Flores, Case No.  
10 21-01036 (E.D. Cal.). The victim's estate was forced to expend even  
11 more legal fees to litigate defendant Flores's attempt to discharge  
12 this debt.

13 Therefore, the government requests that the Court order  
14 restitution in the amount of \$1,000,000 to be jointly and severally  
15 liable with defendant Moore, provided it includes offset for any  
16 payments made on the \$1,000,000 stipulated judgment against  
17 defendants Anthony David Flores and Anna Rene Moore in Los Angeles  
18 Superior Court Case 18SMCV00134. See PSR ¶ 166. This will ensure  
19 that defendant Flores pays a significant sum of restitution, abides  
20 by his legal commitments, and cannot try to escape it through the  
21 misuse of the bankruptcy process.

22 //

23 //

24 //

1 **VI. CONCLUSION**

2 For the foregoing reasons, the government respectfully requests  
3 that this Court sentence defendant Flores to 180 months'  
4 imprisonment, followed by three years of supervised release (with the  
5 requested no-contact order for the victim's family), and the special  
6 assessment of \$900.

7 Dated: June 3, 2024

Respectfully submitted,

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